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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,530

02/24/2005

Hermes Reyes Cuadros

05019

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23338 7590 08/31/2007
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SUITE 105
ALEXANDRIA, VA 22314

EXAMINER

LIU, JONATHAN

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

08/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,530

Applicant(s)

REYES CUADROS, HERMES

Examiner

Jonathan J. Liu

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/6/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5, 7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/24/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to remarks filed 8/6/2007

Response to Arguments

1. Applicant's arguments filed 8/6/2007 have been fully considered but they are not persuasive.

In regards to applicant's arguments that Sohn et al. teach away from a symmetric mattress, as restated, such symmetry is well known in the art – as evidenced by Blecker et al. and Haller. The combination (i.e. Sohn et al. as modified by Blecker et al.) is viewed as a whole, and thus, the symmetry of mattresses is obvious to one of ordinary skill in the art (as shown by Blecker et al.). One of ordinary skill in the art would have known that if one did not desire a mattress with 2 different sides (i.e. one firm and one soft), that one of ordinary skill in the art would know to make said mattress symmetrical. Accordingly, it is a finding of fact that symmetrical mattresses are well known and it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the mattress of Sohn et al. (as modified) symmetrical.

Regarding applicant's arguments that the resilient board of Blecker et al. would not be rigid enough to serve as the bed board of Sohn et al. – it is noted that Sohn et al. *only* require a resiliently pliable member (col. 1, line 38). Thus, Blecker's "rubber pad" (col. 2, line 26) clearly meets this limitation of being resiliently pliable. Furthermore, because the pad of Blecker et al. increases ventilation while still providing sufficient padding, it would have been obvious to substitute the member of Sohn et al. with the pad of Blecker et al. to increase ventilation within the mattress.

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It is noted that while both Sohn et al and Blecker et al. teach to solve art recognized problems - Sohn et al. solve the problem of imparting sufficient resistance/padding to a mattress by means of a resiliently pliable member incorporated into the mattress structure while Blecker et al. solve the problem of increasing ventilation through use of a perforated sheet (col. 3, lines 45-46) - because there are a finite number of possible combinations of the layers, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. Thus, it would have been obvious to a person of ordinary skill in the art to try the sequence of layers as claimed. Because this would lead to the anticipated success of the combination, it is likely that the invention is the product not of innovation but of ordinary skill and common sense. In turn, because the ventilated mattress as claimed has the same characteristics of the prior art, it would have been obvious to make the mattress with the specific sequence of materials.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Colombia on 9/26/2002. It is noted, however, that applicant has not filed a certified copy of the CO 02075481 application as required by 35 U.S.C. 119(b). Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sohn et al. (US 2,471,125) in view of Blecker et al. (US 3,255,469). Sohn et al. teach a mattress comprising a central metallic spring unit (10) on which is disposed a first sisal layer (12); a cotton layer (15); a plastic layer (17) having a plurality of perforations therethrough (col. 2, lines 26-47); and an outer textile padded layer (18). With respect to the limitation of a second sisal layer, it is noted that the applicant has not shown or demonstrated that this particular layer is critical for the practice of the invention or is otherwise beyond the ordinary level of skill in the art. Because it can be assumed that the skilled artisan would vary the components used in the construction of an invention as needed, this particular layer is considered to be within the ordinary level of skill in the art and its use to be obvious to the skilled artisan. Accordingly, it would have been obvious to include a second sisal layer between the fabric and plastic layers of Sohn et al. for further cushioning. Also, Sohn is silent to whether the plastic layer is of a rubber. Blecker et al. teach a multiple layer cushion comprising a perforated rubber layer (col. 2, lines 23-27). Sohn et al. and Blecker et al. are analogous because they are from the same field of endeavor, i.e. multiple layered cushions. It would have been obvious to modify the plastic layer of Sohn et al. with the rubber layer of Blecker et al. The motivation would have been to provide an alternative cushioning material as known in the art (Blecker: col. 2, lines 25-27). Therefore, it would have been obvious to modify the invention to Sohn et al. as specified in claim 5. With respect to the limitation wherein said outer textile padded layer is sewn to the rubber layer, it is well known to

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stitch and/or sew together layers of a cushion/mattress to prevent shifting of the layers when in use. Furthermore, while Sohn et al. only teach the specified layers on one face of said springs, it is well known in the art to manufacture multiple-layered mattresses in a symmetrical fashion [i.e. the same layers on both faces of the central spring unit – as can be seen by Blecker et al. (US 3,255,469) and Haller (US 3,493,980)]. Accordingly, it would have been obvious to manufacture the mattress to Sohn et al. in a symmetrical fashion.

With regards to claim 7, the modified invention makes up a ventilated unit dissipating heat, with an ergonomic fitting made up by the natural latex and the metallic spring unit in combination.

In regards to claim 9, it is well known to provide multiple perforated rubber layers as shown in figure 3 to Blecker et al. (members 18 and 20).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

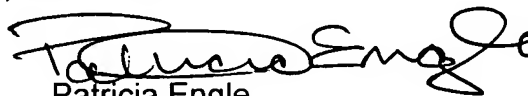
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan J. Liu whose telephone number is (571) 272-8227. The examiner can normally be reached on Monday through Friday, 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patricia Engle
Supervisory Patent Examiner
Art Unit 3673

8-28-07

Jonathan Liu
Patent Examiner
Art Unit 3673